

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

22-CR-42 (JLS)

JOHN L. HUTCHINS,

Defendant.

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**DECISION AND ORDER**

On March 24, 2022, a grand jury returned an indictment charging Defendant John L. Hutchins with various crimes related to the Paycheck Protection Program. *See* Dkt. 1. United States Magistrate Judge Jeremiah J. McCarthy was designated to hear and determine, and report and recommend on, all pre-trial proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Dkt. 6.

On December 14, 2022, Defendant filed a motion to dismiss Count 11 of the indictment, a motion to suppress statements, and various other discovery motions. Dkt. 23. On February 13, 2023, the government responded in opposition to Defendant's motions (Dkt. 23). Dkt. 25. In its opposition, the government moved for reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure. *Id.* at 19. Defendant replied on February 21, 2023. Dkt. 26. The Court held oral argument on March 29, 2023. *See* Dkt. 33. The Court then deemed all aspects of Defendant's motions (Dkt. 23) resolved except his requests for (1) dismissal of Count 11 of the Indictment; and (2) suppression of statements. *See*

Dkt. 34. Defendant thereafter filed a supplemental submission related to the pending motions. Dkt. 35.

On April 14, 2023, Judge McCarthy issued a combined Report, Recommendation, and Order (“R&R”) with respect to the remaining aspects of Defendant’s (Dkt. 23) motions. Dkt. 36. Specifically, Judge McCarthy recommended that this Court deny Defendant’s request for dismissal of Count 11 of the Indictment, and further deny Defendant’s request for suppression of statements. *See id.* at 9.<sup>1</sup>

On April 28, 2023, Defendant filed objections to the R&R. Dkt. 37. Defendant objects to Judge McCarthy’s recommendation that this Court “deny dismissal of Count 11 of the indictment and the suppression of statements made by the defendant on November 2, 2020.” *Id.* at 2. With respect to Count 11, Defendant argues that “Due Process requires that the defendant be provided notice of the fact that it is a crime to make a false statement under § 1001.” The government responded on May 12, 2023. Dkt. 39. Defendant did not reply.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3).

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<sup>1</sup> The Court also granted the government’s motion for reciprocal discovery. *Id.*

This Court has carefully reviewed the R&R, objections, response, and the record in this case. Based on that *de novo* review, the Court accepts and adopts Judge McCarthy's recommendation.

For the reasons stated above and in the R&R, the Court DENIES Defendant's request for dismissal of Count 11 of the Indictment, and further DENIES Defendant's request for suppression of statements.

SO ORDERED.

Dated: May 30, 2023  
Buffalo, New York

  
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JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE